IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Ratan Devi Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.893/2004

DATE OF ORDER :: November 10, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Ramesh Purohit, for the petitioner.
Mr. Ashok Upadhyaya, P.P.
Mr.J.P.Chhangani, for complainant non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.05/2004, Police Station, Hamirgarh for the offences under sections 467 and 468 I.P.C.

I have heard learned counsel for the parties. Carefully gone through the FIR in question.

It is contended by the learned counsel for the petitioner that prior to the FIR in question, the complainant lodged a first

information report being FIR No.208/2003 dt. 18.11.2003 alleging therein that in the month of September, 2001 when the complainant went for pilgrimage (Char-Dham), she entrusted her ornaments mentioned in the FIR to her daughter, who is petitioner herein. After returning from pilgrimage, the complainant demanded the ornaments. The petitioner have been avoiding to return the ornaments and ultimately refused to return the ornaments and as such committed the offence of criminal breach of trust. The said FIR was registered by the police on receipt of the complaint from the Court of Judicial Magistrate (East), Bhilwara, that investigation is still pending. During the pendency of the investigation, the complainant lodged another FIR being FIR No.05/2004 dt. 14.1.2004 alleging therein that the petitioner has forged a receipt by forging the signatures of the complainant and her son, wherein, it has been shown that the ornaments have been received by the complainant whereas the complainant stated that he has not executed any such receipt and, therefore, committed the offences of forgery punishable under sections 467 and 468 I.P.C.

Learned counsel for the petitioner submits that the alleged receipt was filed during the pendency of the investigation of earlier FIR No.208/2003 and, therefore, in that FIR, though there is no allegation of forging the documents but the forging

of alleged receipt relating to the same occurrence and, therefore, the receipt can also be investigated in the earlier FIR.

From the FIR, it is also clear that the alleged receipt, in which the allegation of the complainant is that it has been forged, has already been filed before the police during the investigation of FIR No.208/2003, which is evident from the averments made in the FIR No.5/2004, wherein the complainant herself stated that the receipt was shown to her by the investigating officer of Police Station, Hamirgarh. A copy of the same was made available to the petitioner. This shows that the alleged receipt is already on the investigation file of FIR No.208/2003.

By the instant petition the petitioner seeks quashing of FIR. In my view keeping in view the decision of the Hon'ble Supreme Court in Upkar Singh vs. Ved Prakash & Ors., **JT 2004 (7) SC 488** and a recent decision of Hon'ble Supreme Court in Rameshchandra Nandlal Parikh vs. State of Gujarat & Anr., (2006) 1 SCC 732, no case for quashing the FIR in question is made out.

Learned counsel for the petitioner submits that he wishes to file certain documents, which can show that no offence is

made out. It will be open for the petitioner to file the documents before the police and if such documents are filed, the investigating officer shall receive the same and conduct the investigation with regard to the documents so filed. It will also be open for the police to investigate both the matters together since they pertain to same police station and between the same parties.

With these observations, the petition is dismissed. Ad interim stay order dt. 25.8.2005 is vacated. The stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-